

FLATHEAD COUNTY PLANNING AND ZONING OFFICE
ZONING MAP AMENDMENT REPORT (#FZC-20-17)
TARA OSTER
JANUARY 25, 2021

I. GENERAL INFORMATION

A. Project Description

This is a report to the Flathead County Planning Board and Board of Commissioners regarding a request by Tara Oster for property located at 307 Chapman Hill Road near Bigfork, MT, for a zoning map amendment within the Holt Zoning District. The proposed amendment, if approved, would change the zoning of the subject property from *R-3 'One Family Residential'* to *R-1 'Suburban Residential'*.

B. Application Personnel

1. Owners

Tara Oster
307 Chapman Hill Rd
Bigfork, MT 59911

2. Technical Assistance

None

C. Process Overview

Documents pertaining to the zoning map amendment are available for public inspection in the Flathead County Planning and Zoning Office located in the South Campus Building at 40 11th Street West in Kalispell.

1. Land Use Advisory Committee/Council

The Bigfork Land Use Advisory Committee (BLUAC) will conduct a public hearing on the proposed zoning map amendment on January 28, 2021 at 4:00 P.M. at the Bethany Lutheran Church located at 8559 MT Highway 35 in Bigfork. A recommendation from the BLUAC will be forwarded to the Planning Board and County Commissioners for their consideration.

2. Planning Board

The Flathead County Planning Board will conduct a public hearing on the proposed zoning map amendment on February 10 at 6:00 P.M. in the South Campus Building, 40 11th Street West, Suite 200, Kalispell, MT. A recommendation from the Planning Board will be forwarded to the County Commissioners for their consideration.

3. Commission

In accordance with Montana law, the Commissioners will hold a public hearing on the proposed zoning map amendment on March 2, 2021. Prior to the Commissioner's public hearing, documents pertaining to the zoning map amendments will also be available for public inspection in the Office of the Board of Commissioners at 800 South Main Street in Kalispell.

II. PROPERTY CHARACTERISTICS

A. Subject Property Location and Legal Description

The total acreage of the subject property is approximately 1.0 acres. The property is located at 307 Chapman Hill Road, Bigfork, MT (see Figure 1 below). The properties are legally described as:

TRACT 1 OF CERTIFICATE OF SURVEY NO. 11767, LOCATED IN THE SOUTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 25, ALL IN TOWNSHIP 27 NORTH, RANGE 20 WEST, P.M.M., FLATHEAD COUNTY, MONTANA.

Figure 1: Subject property (outlined in yellow)

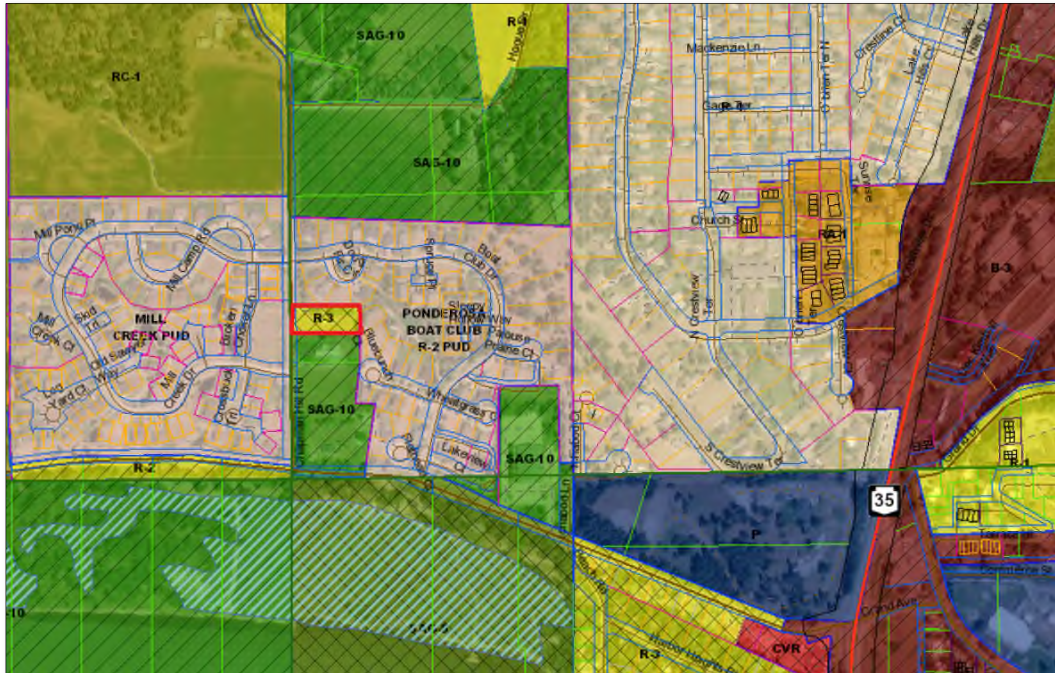


B. General Character of and Reason for Amendment

The subject property consists of one parcel of land owned by Tara Oster. The property currently contains a single-family dwelling.

The property is currently zoned R-3 and the applicants are proposing R-1 zoning. This application is a result of a zoning violation for the keeping of livestock within the R-3 zoning. The application states, "To allow for the keeping of livestock; specifically, one horse and one donkey."

Figure 2: Surrounding zoning of the subject property (outlined in red)

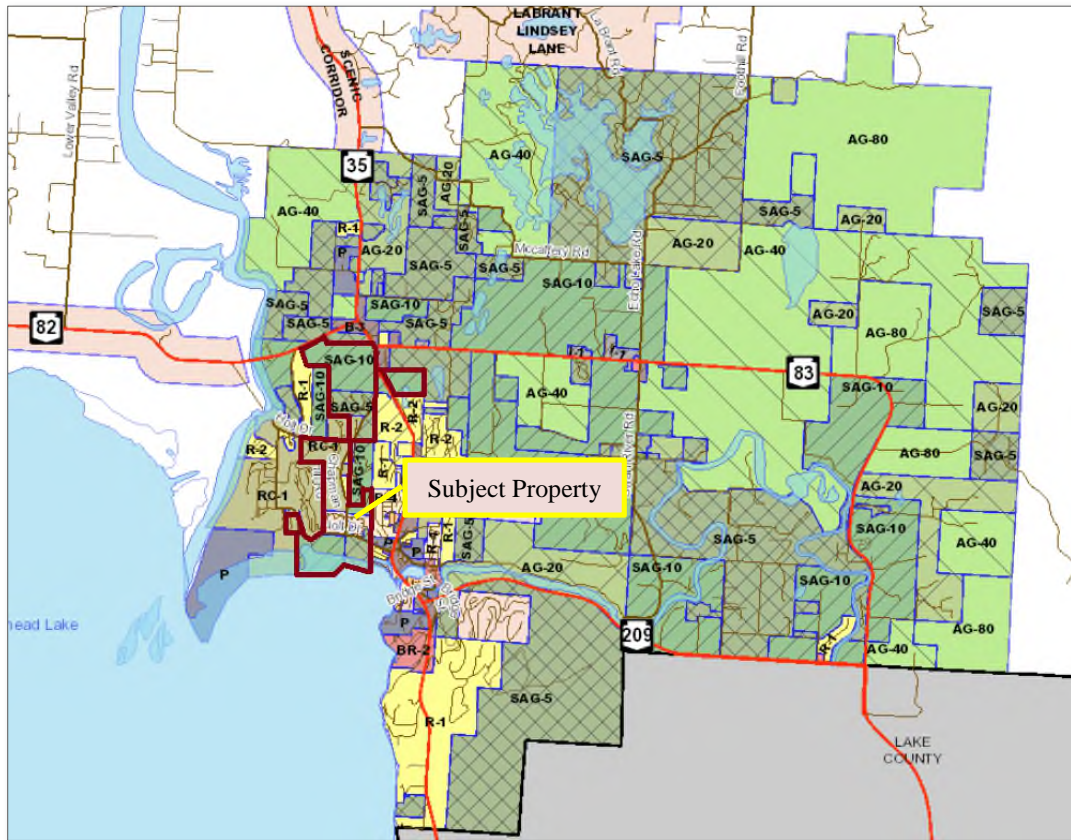


C. Adjacent Zoning and Character of the Overall Zoning District

The subject property is located in the Holt Zoning District, which is an 880-acre zoning district within the unincorporated community of Bigfork, and is subject to the Bigfork Neighborhood Plan. The character of the zoning district in the vicinity of the subject property is primarily residential and suburban agricultural with lots ranging from 0.10 to 40 acres in size. There are commercial uses approximately a half mile to the east along Highway 35, and Flathead Lake is approximately a quarter mile to the south.

Zoning immediately adjacent to the subject property includes Ponderosa Boat Club R-2 PUD to the north and east, Mill Creek Estates R-2 PUD to the west, and SAG-10 to the south, which have minimum lot sizes of 4,000 square feet, 3,000 square feet, and 10 acres. Within a quarter mile of the subject property, there is also RC-1, R-4, R-2, R-1 and SAG-5 zoning, which have minimum lot sizes of 2,500 square feet, 6,000 square feet, 20,000 square feet, 1 acre, and 5 acres.

Figure 3: Holt Zoning District (outlined in dark red)



Public Services and Facilities

Sewer:	Individual septic system/Bigfork Water & Sewer District adjacent
Water:	Individual well/Bigfork Water & Sewer District adjacent
Electricity:	Flathead Electric Cooperative
Natural Gas:	Northwestern Energy
Telephone:	CenturyTel
Schools:	Bigfork School District
Fire:	Bigfork Fire District
Police:	Flathead County Sheriff

III. COMMENTS

A. Agency Comments

1. Agency referrals were sent to the following agencies on December 22, 2020:
 - Bonneville Power Administration
 - Bigfork School District
 - Bigfork Fire District
 - Bigfork Water and Sewer District
 - Flathead City-County Health Department
 - Flathead County Road and Bridge Department
 - Flathead County Solid Waste
 - Flathead County Weeds and Parks Department

- Montana Department of Transportation
2. The following is a summarized list of agency comment received as of the date of the completion of this staff report:
- Bonneville Power Administration
 - Comment: “At this time, BPA does not object to this request, as the property is located 7.40 miles away from the nearest BPA transmission lines or structures.” Email dated December 22, 2020
 - Flathead City-County Health Department – Environmental Health Services
 - Comment: “The Flathead City-County Environmental Health Department has no comment on FZC-20-17 Oster Zone Change Request.” email dated December 30, 2020.
 - Flathead County Solid Waste District
 - Comment: “Thank you for the opportunity to comment on the above zoning change request. The proposed zone change request is from R-3 One Family Residential to R-1 Suburban Residential in the Holt Zoning District.

“The District requests that all solid waste generated at the proposed location be hauled by a private licensed hauler. Republic Services is the licensed (PSC) Public Service Commission licensed hauler in this area.” Letter dated January 4, 2021.
 - Flathead County Road & Bridge Department
 - Comment: “Thank you for the opportunity to comment on the above reference application. At this point the County Road Department does not have any comments on this request.” Letter dated December 28, 2020.

B. Public Comments

1. Adjacent property notification regarding the proposed zoning map amendment was mailed to property owners within 150 feet of the subject properties on January 20, 2021. Legal notice of the Planning Board public hearing on this application was published in the January 24, 2021 edition of the Daily Interlake.

On January 6, 2021, public notice of the Board of County Commissioners public hearing regarding the zoning map amendment was physically posted on the subject properties and within the zoning district according to statutory requirements found in Section 76-2-205 [M.C.A]. Notice will also be published once a week for two weeks prior to the public hearing in the legal section of the Daily Interlake. All methods of public notice will include information on the general character of the proposed zoning map amendment, and the date, time, and location of the public hearing before the Flathead County Commissioners on the requested zoning map amendment.

2. Public Comments Received

As of the date of the completion of this staff report, two written public comments have been received regarding the requested zoning map amendment and one phone inquiry. The written comments expressed concern over diminished property values and for the donkey and horse. It is anticipated any member of the public wishing to provide comment on the proposed zoning map amendment may do so at the Bigfork Land Use

Advisory Committee public hearing scheduled for January 28, 2021, the Planning Board public hearing scheduled for February 10, 2021, and/or the Commissioner's Public Hearing scheduled for March 2, 2021. Any written comments received following the completion of this report will be provided to members of the Planning Board and Board of Commissioners and summarized during the public hearing(s).

IV. EVALUATION OF PROPOSED AMENDMENT

Map amendments to zoning districts are processed in accordance with Section 2.08 of the Flathead County Zoning Regulations. The criteria for reviewing zoning amendments are found in Section 2.08.040 of the Flathead County Zoning Regulations and 76-2-203 M.C.A.

A. Build-Out Analysis

Once a specific zoning designation is applied to an area, there are certain land uses that are permitted or conditionally permitted. A build-out analysis is performed to examine the maximum potential impacts of full build-out of those uses. The build-out analysis is typically done looking at maximum densities, permitted uses, and demands on public services and facilities. Build-out analyses are objective and are not best or worst case scenarios. Without a build-out analysis to establish a foundation of understanding, there is no way to estimate the meaning of the proposed change to neighbors, the environment, future demands for public services and facilities and any of the evaluation criteria, such as impact to transportation systems. Build-out analyses are simply establishing the meaning of the zoning map amendment to the future of the community to allow for the best possible review.

The R-3 designation is defined in Section 3.12.010 of the Flathead County Zoning Regulations (FCZR) as, *'A district to provide adequate lot size for urban residential development; should have good thoroughfare access, and be in proximity to community and neighborhood facilities, i.e., schools, parks, shopping areas. This district will normally require all public utilities.'*

Per Section 3.10.010 FCZR, R-1 is defined as, *'A district to provide estate-type development. These areas would normally be located in rural areas away from concentrated urban development, typically not served by water or sewer services, or in areas where it is desirable to permit only low-density development (e.g., extreme topography, areas adjacent to floodplains, airport runway alignment extensions).'*

The permitted uses and conditional uses for the proposed and existing zoning contain differences. The amendment from R-3 to R-1 zoning would increase the number of permitted uses from 8 to 15 and the number of conditional uses from 17 to 23.

Permitted uses within both R-3 and R-1 are as follows:

- Class A manufactured home
- Day care home
- Dwelling, single-family
- Home occupation
- Homeowners park and beaches
- Park and publicly owned recreational facility
- Public transportation shelter station
- Public utility service installation

Conditional uses within both R-3 and R-1 are as follows:

- Bed and breakfast establishment
- Cellular communications tower (monopole only)
- Church and other place of worship
- Community center building operated by a non-profit agency
- Community residential center
- Dwellings, cluster development
- Dwelling, family hardship
- Electrical distribution station
- Golf course
- Golf driving range
- Manufactured home park
- School, primary and secondary
- Short term rental housing
- Temporary building, structure, or use
- Water storage facility

There are no Conditional uses within R-1 that are allowed as permitted uses in R-3.

Conditional uses within R-1 that are not allowed in R-3 are as follows:

- Airfield
- Aircraft Hangars when in association with properties within or adjoin an airport/landing fields
- Camp/Retreat Center
- Caretaker's facility
- Cemetery, mausoleum, columbarium, crematorium
- Radio and television broadcast station
- Stable, public
- Water and sewage treatment plant

There are no Permitted uses within R-3 that are not allowed in R-1.

Conditional uses within R-3 that are not allowed in R-1 are as follows:

- Day care center

The bulk and dimensional requirements within the current R-3 zoning are 20 feet from the front, side-corner and rear and 10 feet from the side property line for principal structure setbacks and 20 feet from the front and side-corner and 5 feet from the side and rear for detached accessory structure setbacks. A setback of 20 feet is required from streams, rivers and unprotected lakes which do not serve as property boundaries and an additional 20 feet is required from county roads classified as collector or major/minor arterials. The maximum height is 35 feet for the principal structure and 18 feet for accessory structures, and the permitted lot coverage is 20%.

The bulk and dimensional requirements for the proposed R-1 zoning are 20 feet from the front, side, side-corner and rear property line for principal structure setbacks and 20 feet from the front and side-corner and 5 feet from the side and rear for detached accessory structure setbacks. A setback of 20 feet is required from streams, rivers and unprotected

lakes which do not serve as property boundaries and an additional 20 feet is required from county roads classified as collector or major/minor arterials. The maximum height is 35 feet for the principal structure and 18 feet for accessory structures, 35 feet when setback for primary structure is met, and the permitted lot coverage is 40%.

Both R-3 zoning and the proposed R-1 zoning have a maximum fence height of 4 feet for front and 6 feet for side and rear yards.

The existing R-3 zoning requires a minimum lot area of 10,000 square feet. The subject property totals 1 acre in size, therefore, three additional lots could be created under the existing zoning. The proposed R-1 zoning requires a minimum lot area of one acre, therefore no lots could be created. The requested zone change to R-1 has the potential to decrease density. Other than minimum lot size, the bulk and dimensional requirements are similar but the amendment would increase the number of permitted and conditional uses.

B. Evaluation of Proposed Amendment Based on Statutory Criteria (76-2-203 M.C.A. and Section 2.08.040 Flathead County Zoning Regulations)

1. Whether the proposed map amendment is made in accordance with the Growth Policy/Neighborhood Plan.

The application states, "I believe this zoning amendment is in accordance with the Bigfork Neighborhood Plan contained within the Flathead County Growth Policy as adopted by the Flathead County Commissioners on June 2, 2009. The area in which the property is located has been indicated as 'Suburban Residential' per the Bigfork Neighborhood Plan. Suburban Residential zoning designations include R-1, RC-1, and R-2.5 and are described as moderate population density. Furthermore, the proposed change would not have significant, if any, impact on wildlife, wildlife habitats and natural resources in the area. My desire for altering the land use of the property will keep in line with the Plan and the importance of sustaining a healthy, vibrant community."

The proposed zoning map amendment falls within the jurisdiction of the Flathead County Growth Policy, adopted on March 19, 2007 (Resolution #2015 A) and updated October 12, 2012 (Resolution #2015 R). Additionally, the property is located within the Bigfork Neighborhood Plan adopted on August 16, 1993 by the Flathead County Commissioners (Resolution #933A) and updated June 2, 2009 by the Flathead County Commissioners (Resolution #2208).

Because the property is located within the Bigfork Neighborhood Plan which was adopted as an addenda to the Growth Policy, land use decisions in the Bigfork Neighborhood Plan area should be guided by the neighborhood plan. The Executive Summary of the Growth Policy states, "*Land use decisions guided by a neighborhood plan should reflect a community's vision of how they intend to grow in the future. In the absence of a neighborhood plan, land use decisions are guided by the growth policy and existing regulatory documents, as applicable.*" Part 3 of the Preface of the Growth Policy states, "*Neighborhood plans are an important tool for local planning at a level of detail that does not appear in the county-wide growth policy.*"

The Bigfork Neighborhood Map (Neighborhood Plan) serves as a localized planning tool for the Bigfork area. The Neighborhood Plan was incorporated into the Growth Policy to provide more specific guidance on future development and land use decisions

within the plan area at the local level. According to the Neighborhood Plan, *“The goals, policies, and text included herein should be considered as a detailed description of desired land use in the Bigfork Neighborhood Plan Area (BNPA). The Plan should also be used as guidance in adopting zoning ordinances and resolutions that would regulate land use in the BNPA.”*

The Future Land Use Map of the Neighborhood Plan designates the subject property as ‘Suburban Residential.’ Part V Land Use and Natural Resources defines ‘Suburban Residential’ as *“a medium-density range of single family residential dwellings and cluster development. All public services should be conveniently and efficiently located close to areas designated residential. Commercial and industrial land uses are not appropriate (mixed uses are accommodated in some commercial zones). Examples of typical zoning in this designation would be R-2.5, R-1 and RC-1.*

1. Areas at the most rural fringes of residential designations that are free of environmental constraints or have constraints imposed by the built environment should utilize the R-2.5 zoning designation. Examples would be areas that are clearly residential and have been for some time, but were developed lacking adequate infrastructure and/or services. These areas would typically be on individual wells and septic systems, but could utilize public water and sewer if developed with a clustering technique to preserve scenic areas and/or open space and get a bonus density for the developer/landowner.

2. R-1 and RC-1 zoning designations are appropriate at the fringes of public water and sewer, where extensions are either recently completed or very likely. Similarly to the R-2.5 zoning, these areas should be appropriate for cluster developments, PUDs, golf course, and other areas where open lands can be preserved through efficient use of facility expansion.”

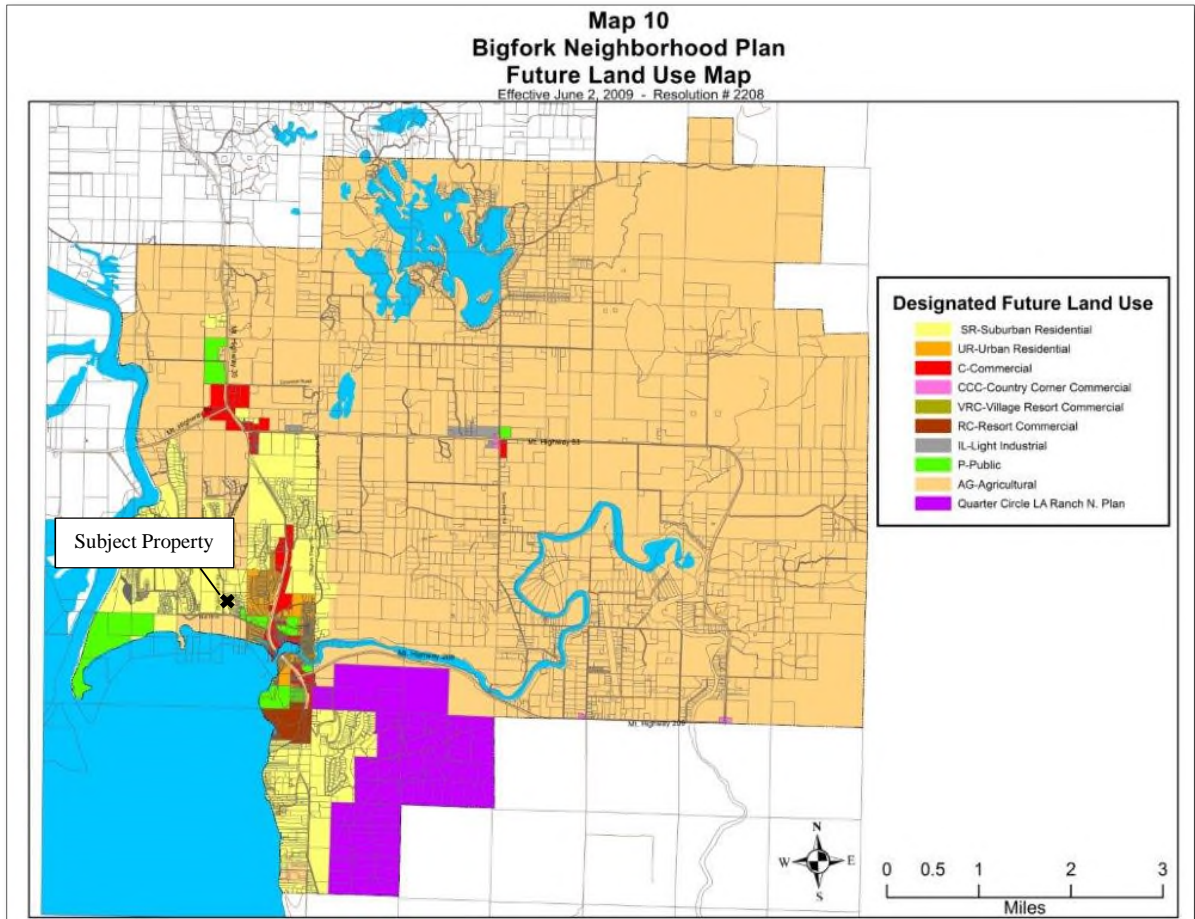
The Neighborhood Plan defines the proposed R-1 zoning as ‘Suburban Residential’ which *“is a medium-density range of single family residential dwellings and cluster development. All public services should be conveniently and efficiently located close to areas designated residential. Commercial and industrial land uses are not appropriate (mixed uses are accommodated in some commercial zones). Examples of typical zoning in this designation would be R-2.5, R-1 and RC-1.*

1. Areas at the most rural fringes of residential designations that are free of environmental constraints or have constraints imposed by the built environment should utilize the R-2.5 zoning designation. Examples would be areas that are clearly residential and have been for some time, but were developed lacking adequate infrastructure and/or services. These areas would typically be on individual wells and septic systems, but could utilize public water and sewer if developed with a clustering technique to preserve scenic areas and/or open space and get a bonus density for the developer/landowner.

2. R-1 and RC-1 zoning designations are appropriate at the fringes of public water and sewer, where extensions are either recently completed or very likely. Similarly to the R-2.5 zoning, these areas should be appropriate for cluster developments, PUDs, golf course, and other areas where open lands can be preserved through efficient use of facility expansion.”

The properties immediately to the north, east and west of the subject property are also designated as 'Suburban Residential'.

Figure 4: Bigfork Neighborhood Plan Future Land Use Map



The following goals and objectives of the Neighborhood Plan appear applicable to the proposed Neighborhood Plan map amendment, and generally indicate consistency with the proposal:

Population and Economics Goals and Policies

- ❖ **G.2** – *Support growth and development in the BPA in a way that protects the character of the area and its natural resources.*
 - **P.2.2** – *Alternative economic development should be supported but not to the detriment of the quiet enjoyment of the residents within the BPA.*
 - The subject property is adjacent on three sides by higher density residential and by lower density residential on the south side. The proposed zoning would allow similar but more uses than the current zoning, and less density. The proposal would likely protect the character of the area and its natural resources while functioning as a

transitional zoning designation between the higher and lower density adjacent zoning.

- ❖ **G.3** – *Infrastructure must be sufficiently developed to support population growth and economic development.*
 - The subject property is located along a public paved road which is classified as a collector, and adjacent to public utilities. The infrastructure appears to be sufficiently developed to support population growth and economic development.

Housing Goals and Policies

- ❖ **G.6** – *Encourage and support residential development densities which are appropriate to existing or planned public facilities and services, which are absent of environmental constraints, and which enhance the character of the community.*
 - **P.6.1** – *Urban residential densities should be located in areas with a significant network of paved public roads, which are served by community water and sewer, which have convenient access to public facilities and services, such as schools, libraries, fire services, and commercial services, all in areas with minimal environmental constraints.*
 - The subject property is located along a paved public road, community water and sewer services are available in the area, public facilities and services including a fire department, medical facility, schools, and commercial services are within close proximity to the property, and the property does not contain environmental constraints.
- ❖ **G.8** – *Encourage housing that maintains traditional development patterns while protecting property values and natural resources.*
 - Although the property is adjacent on three sides to higher density residential it is also adjacent to SAG-10 to the south and is located in an area with SAG-10, SAG-5 and R-2. The proposed zoning map amendment would continue the pattern of development in the surrounding area and permitted uses within the proposed zoning designation are similar to the existing uses in the area. The property contains no environmental constraints and is currently developed as residential.

Residential Development

- ❖ **G.19** – *Encourage development to follow an overall design that is consistent with the nature, quality, and density of surrounding development.*
 - The property is surrounded on three sides by higher density residential. The objective of the proposed zoning map amendment would be to continue the pattern of development in the surrounding area. Permitted uses within the proposed zoning designation are similar to the existing zoning designation.

Finding #1: The proposed zoning map amendment generally complies with the goals and objectives of the Bigfork Neighborhood Plan because it supports residential development consistent with surrounding development and with access to public facilities and services and minimal environmental constraints. The proposed zoning map amendment complies with the Bigfork Neighborhood Plan Future Land Use Map because the property is designated as '*Suburban Residential*'.

2. Whether the proposed map amendment is designed to:

a. Secure safety from fire and other dangers;

The subject property is located within the Bigfork Fire District. The Bigfork Fire Department is located approximately 0.8 road miles southeast of the property and would respond in the event of a fire or medical emergency. The subject property is located within the Wildland Urban Interface (WUI) but is not within a fire district priority area or countywide priority area. The Bigfork Fire District did not provide comments on this proposal.

According to the application, "The proposed zoning change does not affect safety from fire and other dangers. The subject property is located within the Bigfork Fire District and is located approximately 0.8 miles from the Bigfork Fire Hall located at 810 Grand Dr. The subject property is not located within the 100-year Floodplain."

According to FEMA FIRM Panel 30029C2305J, the property is located within an unshaded Zone X, an area determined to be outside the 0.2% annual chance flood hazard.

The subject property is located on Chapman Hill Road, which is a public, paved, two-lane, collector road. The road appears adequate to provide ingress and egress for emergency services.

Finding #2: The proposed zoning map amendment will not impact safety from fire and other dangers because the property is not located in a fire district priority area or countywide priority area, fire protection would be adequate given the proximity to the Bigfork Fire Department, legal and physical access exists via Chapman Hill Road which is capable of providing emergency access, and the property does not contain environmental constraints.

b. Promote public health, public safety, and general welfare;

The Bigfork Fire Department would respond in the event of a fire or medical emergency. The Flathead County Sheriff's Department currently provides and will continue to provide police services to the subject property.

The application states, "The proposed zoning amendment does not substantially affect the public health, public safety or general welfare. The property is accessed by paved Chapman Hill Rd and is easily accessible by police, fire, and medical services. The proposed amendment does not affect the access of these services to the surrounding properties. The property possesses its own well and septic system."

The proposed R-1 zoning would allow for similar uses to what already exist in the area and would be a less restrictive zone than the current R-3 designation, therefore it is not anticipated to adversely impact public health, safety or general welfare.

Finding #3: The proposed zoning map amendment would likely not have a negative impact on public health, public safety and general welfare because the properties are served by the Bigfork Fire Department and the Flathead County Sheriff's Department, and the proposed zoning would allow for similar uses to what already exists in the area.

c. Facilitate the adequate provision of transportation, water, sewerage, schools, parks, and other public requirements.

According to the application, "The proposed zoning amendment should have no impact on the adequate provision of transportation, water, sewerage, schools, parks and other public requirements. The proposed amendment would simply adjust the allowed number of homes from three to one per acre. As the property has its own well and septic system, the property will place no additional burden on local utilities or other public requirements."

Chapman Hill Road is a public, paved, two-lane collector road within a 60 foot easement. The most recent traffic count for Chapman Hill Road, taken in 2014, is 293 Average Daily Traffic (ADT). Using standard trip generation, residential uses typically generate 10 vehicle trips per dwelling for single family residential. The subject property is approximately 1 acre in size and the current zoning has a minimum lot area of 10,000 square feet. Therefore, three additional lots could be created and add three additional single family dwellings with a potential to generate an increase of approximately 30 AD. If current traffic trends continue and if future division of the subject property were to occur, the proposed zoning has the potential to increase traffic by 10.2% on Chapman Hill Road. The proposed R-1 zoning designation has a minimum lot size of one acre. Therefore, no additional lots or single family dwellings would be allowed. As a result, the traffic count will remain similar to what already exists.

The Flathead County Road Department indicated no concerns regarding the proposal. The Montana Department of Transportation provided no comment regarding the proposal.

The subject properties are located within the Bigfork School District. According to census data for Flathead County, the average household size is 2.46 persons and approximately 16.2% of the population is between the ages of 5-17 years old. The proposed R-1 zoning has the potential to generate no additional single-family dwellings and therefore could generate no new school age children. No comments were received from the Bigfork School District.

There are numerous parks, natural areas, and recreational opportunities within close proximity to the property, therefore the zoning map amendment is not likely to effect the adequate provision of parkland.

Finding #4: The proposed zoning amendment would facilitate the adequate provision of transportation because access is provided by a public, paved road, the Flathead County Road and Bridge Department had no concerns with the proposal, a new approach permit would be required for a change of use or new approach, and the Montana Department of Transportation provided no comments.

Finding #5: The proposed zoning map amendment would facilitate the adequate provision of water, sewerage, schools, parks, and other public requirements because further division of land on the subject property would require review through the Flathead City-County Health Department, the Montana Department of Environmental Quality, and be subject to the Subdivision and Platting Act, the proposal does not have the potential to generate additional school age children, the Bigfork School District did not comment on the proposal, and there would be minimal impacts on parks.

3. In evaluating the proposed map amendment, consideration shall be given to:

a. The reasonable provision of adequate light and air:

The applicant states, “The proposed zoning change will have minimal impact in the provision of adequate light and air. The property is lightly treed. The change in land use will have no impact with regard to adequate light and minimal impact with regard to air quality to the surrounding community. The property will be maintained by way of a drag harrow to manage animal waste and minimize impact on air quality.”

No additional lots would be allowed to be created under the proposed zoning. The bulk and dimensional requirements within the current and proposed zoning classifications require a 20 foot setback from the front, side corner, and rear. The side setback is 10 feet for R-3 and 20 feet for R-1. Both the current and proposed zoning require a 20 foot setback from streams, rivers and unprotected lakes which do not serve as property boundaries and an additional 20 foot setback from county roads classified as collector or major/minor arterials. The maximum height is 35 feet for both zoning classifications. The permitted lot coverage is 30% for R-3 and 40% for R-1. The current zoning requires a minimum lot area of 10,000 square feet and the proposed zoning allows for a minimum lot area of one acre.

The bulk and dimensional requirements for R-1 and R-1 differ, however, the requirements have been established to provide for a reasonable provision of light and air.

Finding #6: The proposed zoning map amendment would provide adequate light and air to the subject property because future development would be required to meet the bulk and dimensional requirements of the R-1 zoning designation.

b. The effect on motorized and non-motorized transportation systems:

As previously stated, primary access to the subject property is via Chapman Hill Road which is a public, paved, two-lane collector road within a 60 foot easement. The most recent traffic count for Chapman Hill Road taken in 2014 is 293 Average Daily Traffic (ADT). Using standard trip generation, residential uses typically generate 10 vehicle trips per dwelling for single family residential. The subject property is approximately 1 acre in size and the current zoning has a minimum lot area of 10,000 square feet. Therefore, three additional single family homes would be allowed on the existing lot, which would generate an increase of approximately 30 ADT. If current traffic trends continue and if future division of the subject property were to occur, the proposed zoning has the potential to increase traffic by

10.2% on Chapman Hill Road. The proposed zoning has a minimum lot area of one acre and would not allow for additional lots or single family dwellings, which would not have an effect on traffic.

The Flathead County Road Department indicated no comments regarding the proposal. The Montana Department of Transportation provided no comment regarding the proposal.

The application indicates, “There will be no impact on motorized and non-motorized transportation systems. The property, currently designated as R-3, only has one residence with two occupants. Changing the designation to R-1 will not increase motorized or non-motorized transportation on Chapman Hill Rd.”

There is no existing pedestrian and bicycle path on Chapman Hill Road. Map 6.2 Bike and Pedestrian Paths Network, adopted as part of the Flathead County Growth Policy, indicates Chapman Hill Road for a proposed connector bike and pedestrian path, which would serve the subject property if constructed in the future.

Finding #7: The proposed zoning map amendment will have minimal effects on motorized transportation systems because access is provided by a public, paved road, the Flathead County Road and Bridge Department had no concerns with the proposal, and a new approach permit would be required for a change of use or new approach.

Finding #8: The proposed zoning map amendment will have minimal effects on the non-motorized transportation systems because the change will not have an impact on bike and pedestrian paths in the county, and the subject property will potentially have access to a bike and pedestrian path in the future.

c. Compatible urban growth in the vicinity of cities and towns (that at a minimum must include the areas around municipalities):

The application states, “The property sits within the medium population density Suburban Residential designation as shown in Map 10 (Future Land Use Map) of the Bigfork Neighborhood Plan. Per the plan, the Suburban Residential designation includes R-1, RC1 and R-2.5 zoning. As the property sits outside of the Urban Residential and Commercial designations, it will have no impact on urban growth in the Bigfork unincorporated community. The property is not located near any municipalities.”

The incorporated City of Kalispell, which is the nearest municipality, is located approximately 10 miles northwest of the subject property. The proposed zoning map amendment will not have an impact on urban growth of Kalispell.

Finding #9: The proposed zoning map amendment would not affect urban growth in the vicinity of the nearest incorporated city because the nearest incorporated city is located approximately 10 miles northwest of the subject property.

d. The character of the district(s) and its peculiar suitability for particular uses:

The character of the district and its peculiar suitability for particular uses can best be addressed using the “three part test” established for spot zoning by legal precedent in the case of *Little v. Board of County Commissioners*. Spot zoning is described as a provision of a general plan (i.e. Growth Policy, Neighborhood Plan

or Zoning District) creating a zone which benefits one or more parcels that is different from the uses allowed on surrounding properties in the area. Below is a review of the three-part test in relation to this application and the character of the district and its peculiar suitability for particular uses.

i. ***The zoning allows a use that differs significantly from the prevailing use in the area.***

The intent of the current 'R-3 One Family Residential' zone is to provide adequate lot size for urban residential development; should have good thoroughfare access, and be in proximity to community and neighborhood facilities, i.e., schools, parks, shopping areas. This district will normally require all public utilities.

The proposed 'R-1 Suburban Residential' zone is a district to provide estate-type development; be located in rural areas away from concentrated urban development, typically not served by water or sewer systems or be in areas where it is desirable to permit only low-density development.

According to the application, "The proposed zoning amendment fits the character of the Bigfork area and its peculiar suitability for particular uses. As previously indicated, the property sits within the Bigfork Neighborhood Plan's Suburban Residential designation. Under the section 'Housing Goals and Policies' of the Plan, P.6.2. states: Suburban Residential densities should be located in areas with paved roads, convenient access to commercial services public services and facilities, and should have minimal environmental constraints. The proposed zoning change to R-1 fits with the Plan's 'Housing Goals and Policies'."

The character of the zoning district in the vicinity of the subject property is primarily residential. The allowed uses in the R-1 zone are similar to the uses that exist within the immediate vicinity of the subject property and are less restrictive than the uses allowed under the current R-3 zoning.

ii. ***The zoning applies to a small area or benefits a small number of separate landowners.***

The zoning map amendment would apply to one tract of land, which is approximately 1 acre in size, and one property owner.

iii. ***The zoning is designed to benefit only one or a few landowners at the expense of the surrounding landowners or the general public and, thus, is in the nature of special legislation.***

The character of the district around the subject property is residential. The uses allowed within the proposed R-1 zone would be similar to existing uses. The proposed zone change is not likely to be at the expense of the surrounding landowners or the general public.

In summary, all three criteria must be met for the application to potentially be considered spot zoning. The proposed zoning map amendment does not appear to be at risk of spot zoning, as it does not appear to meet all three of the criteria.

Finding #10: The proposed zoning map amendment appears suitable for the character of the district and does not appear to constitute spot zoning because the proposed zone would allow for similar uses to the surrounding zones.

e. Conserving the value of buildings and encouraging the most appropriate use of land throughout the jurisdictional area.

The subject property is located within the Holt Zoning District, which is an 880 acre zoning district within the unincorporated community of Bigfork. The character of the zoning district in the vicinity of the subject property is residential and suburban agricultural with commercial uses approximately a half mile to the east along Highway 35. The zoning immediately adjacent to the subject property includes Ponderosa Boat Club R-2 PUD to the north and east, Mill Creek Estates R-2 PUD to the west, and SAG-10 to the south. The uses allowed in the proposed zoning are similar to the existing surrounding uses.

The application states, “The proposed amendment will conserve the value of buildings and encourage the most appropriate use of land throughout the jurisdictional area. The proposed zone change to R-1 and the allowable land uses more closely align with the majority of the nearby properties which include several parcels of Suburban Agriculture.”

The proposed amendment is not likely to impact values of buildings and would likely encourage the most appropriate use of the land in the area.

Finding #11: The proposed zoning map amendment appears to conserve the value of buildings and encourage the most appropriate use of land throughout the jurisdictional area because the proposed zoning designation allows for similar uses to the adjacent properties.

4. Whether the proposed map amendment will make the zoning regulations, as nearly as possible, compatible with the zoning ordinances of nearby municipalities.

The nearest municipality is the City of Kalispell which is located approximately 10 miles northwest of the subject property. The subject property is not included in the Kalispell Growth Policy Future Land Use Map. Because there are no nearby municipalities the proposal will have no impact on compatibility of zoning ordinances.

The application states, “Though the proposed zoning amendment is not near any municipalities, it is compatible with the zoning ordinances of the Bigfork area. The zoning of properties in the near vicinity on Chapman Hill Rd include SAG-10, SAG-5, R-2 PUD, and RC-1. The nearest other properties zoned as R-3 are located in the area of Beach Rd. The proposed change to R-1 would be a more appropriate designation of the property when considering the zoning of the nearest properties on Chapman Hill Rd. The property in question is bordered by SAG-10 to the south and R-2 PUD to the north and east. The property adjoining the R-2 PUD to the north is designated SAG-10.”

Finding #12: The proposed zoning map amendment will not impact the compatibility of zoning ordinances of nearby municipalities because the closest incorporated city is located approximately 10 miles northwest of the subject property.

I. SUMMARY OF FINDINGS

1. The proposed zoning map amendment generally complies with the goals and objectives of the Bigfork Neighborhood Plan because it supports residential development consistent with surrounding development and with access to public facilities and services and minimal environmental constraints. The proposed zoning map amendment complies with the Bigfork Neighborhood Plan Future Land Use Map because the property is designated as '*Suburban Residential*'.
2. The proposed zoning map amendment will not impact safety from fire and other dangers because the property is not located in a fire district priority area or countywide priority area, fire protection would be adequate given the proximity to the Bigfork Fire Department, legal and physical access exists via Chapman Hill Road which is capable of providing emergency access, and the property does not contain environmental constraints.
3. The proposed zoning map amendment would likely not have a negative impact on public health, public safety and general welfare because the properties are served by the Bigfork Fire Department and the Flathead County Sheriff's Department, and the proposed zoning would allow for similar uses to what already exists in the area.
4. The proposed zoning amendment would facilitate the adequate provision of transportation because access is provided by a public, paved road, the Flathead County Road and Bridge Department had no concerns with the proposal, a new approach permit would be required for a change of use or new approach, and the Montana Department of Transportation provided no comments.
5. The proposed zoning map amendment would facilitate the adequate provision of water, sewerage, schools, parks, and other public requirements because further division of land on the subject property would require review through the Flathead City-County Health Department, the Montana Department of Environmental Quality, and be subject to the Subdivision and Platting Act, the proposal does not have the potential to generate additional school age children, the Bigfork School District did not comment on the proposal, and there would be minimal impacts on parks.
6. The proposed zoning map amendment would provide adequate light and air to the subject property because future development would be required to meet the bulk and dimensional requirements of the R-1 zoning designation.
7. The proposed zoning map amendment will have minimal effects on motorized transportation systems because access is provided by a public, paved road, the Flathead County Road and Bridge Department had no concerns with the proposal, and a new approach permit would be required for a change of use or new approach.
8. The proposed zoning map amendment will have minimal effects on the non-motorized transportation systems because the change will not have an impact on bike and pedestrian paths in the county, and the subject property will potentially have access to a bike and pedestrian path in the future.

9. The proposed zoning map amendment would not affect urban growth in the vicinity of the nearest incorporated city because the nearest incorporated city is located approximately 10 miles northwest of the subject property.
10. The proposed zoning map amendment appears suitable for the character of the district and does not appear to constitute spot zoning because the proposed zone would allow for similar uses to the surrounding zones.
11. The proposed zoning map amendment appears to conserve the value of buildings and encourage the most appropriate use of land throughout the jurisdictional area because the proposed zoning designation allows for similar uses to the adjacent properties.
12. The proposed zoning map amendment will not impact the compatibility of zoning ordinances of nearby municipalities because the closest incorporated city is located approximately 10 miles northwest of the subject property.

II. CONCLUSION

Per Section 2.08.020(4) of the Flathead County Zoning Regulations (FCZR), a review and evaluation by the staff of the Planning Board comparing the proposed zoning map amendment to the criteria for evaluation of amendment requests found in Section 2.08.040 FCZR has found the proposal to generally comply with the review criteria, based upon the draft Findings of Fact presented above. Section 2.08.040 does not require compliance with all criteria for evaluation, only that the Planning Board and County Commissioners should be guided by the criteria

Planner: DV